BEFORE THE

FEDERAL COMMUNICATIONS COMMISSION

WASHINGTON, D.C. 20554

In the Matter of	)	
	)	
Access Charge Reform for	)	
Incumbent Local Exchange	)	
Carriers Subject to Rate-of-	)	
Return Regulation	)	CC Docket No. 98-77

COMMENTS OF THE MINNESOTA INDEPENDENT COALITION

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SUMMARY OF COMMENTS
OF
MINNESOTA INDEPENDENT COALITION

The Minnesota Independent Coalition respectfully submits the following Comments to the Commission. As the Commission has recognized, there are significant differences between Local Exchange Carriers ("LECs") that are subject to price cap regulation by the Commission ("Price Cap LECs") and LECs that are subject to rate-of-return regulation by the Commission ("RoR LECs"). These differences require that the Commission apply different timetables and different approaches to access charge reform. Specifically, the Commission should not adopt major changes to the access charge structures of RoR LECs until the impacts of Separations Reform and the new universal service mechanisms are better understood. If the Commission does proceed with access charge reforms for RoR LECs that are based on the reforms adopted for Price Cap LECs, the Commission should adopt ceilings on SLCs and PICCs that are based on the averages of the actual SLCs and PICCs of the Price Cap LECs. The Commission should also take steps to assure that any reduction in access charges paid by Interexchange Carriers be fully reflected in reductions of toll charges.

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COMMENTS OF THE MINNESOTA INDEPENDENT COALITION

The following Comments are submitted by the Minnesota Independent Coalition ("Minnesota Coalition") in response to the Commission's NOTICE OF PROPOSED RULEMAKING ("*Notice*") in this proceeding.[1] The Minnesota Coalition is an unincorporated association of over 75 Local Exchange Carriers which are subject to rate of return regulation by the Commission (" RoR LECs"). The members of the Minnesota Coalition provide telephone exchange and exchange access service to over 290,000 access lines in Minnesota, with the average individual member serving approximately 3,800 access lines. All members of the Minnesota Coalition are "rural telephone companies."[2]

[1] See, CC Docket No. 98-77, Notice of Proposed Rulemaking, FCC 98-101 (rel. June 4, 1998).

[2] See, 47 USC § 153(47).

I. THE COMMISSION SHOULD NOT ADOPT MAJOR CHANGES TO ACCESS CHARGE STRUCTURES OF RoR LECs UNTIL IMPACTS OF RELATED PROCEEDINGS ARE BETTER UNDERSTOOD.

The *Notice* identifies several factors that distinguish RoR LECs from Price Cap LECs. These factors include: the far greater reliance of most RoR LECs on revenues from interstate access charges; the higher per line costs of most RoR LECs; and the greater reliance of RoR LECs on a small number of multi-line businesses for a major part of total revenues. Although many states have significantly higher average costs than Minnesota, the information for Minnesota Coalition LECs underscores the concerns identified by the Commission. These factors combine to increase the risks of unexpected and severe consequences of access charge reform for RoR LECs and their customers. These risks indicate that the Commission should not impose the principles applied to access charge reform for Price Cap LECs until the issues and impacts of Separations reform[3] and Universal Service mechanisms are better understood.

A. Interstate Access Charges Account for a Far Greater Portion of the Revenues of Most RoR LECs.

The *Notice* recognizes that Interstate access revenues provide a greater portion of the revenues of the RoR LECs than for Price Cap LECs.[4] The *Notice* further observes that for some RoR LECs, over 50% of their total revenues result from interstate access charges in contrast to the Price Cap LECs which receive about 25% of their revenues from interstate access.[5] The *Notice* also recognizes that the per line revenue requirements of RoR LECs are higher, averaging over $10 per access line for RoR LECs instead of $6.10 for Price Cap LECs.[6] Even though

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[3] *Jurisdictional Separations reform and Referral to Federal-State Joint Board*, CC Docket No. 80-286, Notice of Proposed Rulemaking, 12 FCC Rcd 22120 (1997).
[4] *Notice* ¶ 15.
[5] Id.
[6] *Notice* ¶ 36.

Minnesota is not among the highest cost states, information available for the Minnesota Coalition LECs confirms the Commission's observations.

Review of the 1996 data for Minnesota Coalition LECs showed that interstate access revenues, including the Subscriber Line Charge ("SLC"), provided an average of 36 % of total revenues. Even though the percentage of total revenues did not match the 50 % cited in the *Notice*, the impacts per access line were dramatic. For the Minnesota Coalition LECs, 1996 interstate access revenues:

- exceeded $50 per line per month for 5 LECs, serving approximately 4,000 access lines;
- were between $40 and $50 per line per month for 4 LECs, serving approximately 6,000 access lines;
- were between $30 and $40 per line per month for 12 LECs, serving approximately 22,000 access lines;
- were between $20 and $30 per line per month for 28 LECs, serving approximately 79,000 access lines;
- were between $15 and $20 per line per month for 22 LECs, serving approximately 121,000 access lines;
- and were between $10 and $15 per line per month for the remaining 6 LECs, serving approximately 64,000 access lines.

The significance of interstate access revenues to achieving affordable rates for the end user customers of Minnesota Coalition LECs is apparent.

B. The Specific Access Charge Elements That The Commission Intends To Reform Are Critical Sources of Revenue For Many RoR LECs.

The *Notice* identified the disadvantages of recovering non-traffic sensitive ("NTS") costs through per minute Carrier Common Line ("CCL") charges paid by Interexchange Carriers

("IXCs"),[7] and that these CCL charges provide economically inefficient support for low-volume toll users.[8] The *Notice* also indicated the intent to apply the same pattern of access charge reforms to the RoR LECs as were applied to the Price Cap LECs, [9] largely replacing CCL charges with a combination of an increase in the Subscriber Line Charge ("SLC") for non-primary residential and multiline business lines and with a flat-rated Presubscribed Interexchange Carrier Charge ("PICC").[10]

The *Notice* appears to apply a similar rationale and similar priorities to both the Price Cap LECs and to the RoR LECs, and to rely on universal service to prevent adverse impacts on end-users of RoR LECs. The *Notice* reads in part:

> We tentatively conclude that we should adopt rate structure modifications for rate-of-return LECs that are similar to those that were adopted for Price Cap LECs in the *Access Charge Reform Order*. We conclude that similar modifications are needed .... We acknowledge that certain rate of return LECs, especially those in rural and insular areas face different market conditions and incur higher costs .... Smaller LECs serving more costly areas, however, will receive universal service support based on their embedded costs .... We tentatively conclude, therefore, that adopting similar modifications to those adopted in the *Access Charge Reform Order*, <u>along with the universal service support provided through the new universal service mechanisms</u>, is a significant step that will improve the efficiency of the rate structure employed by the rate-of-return LECs.[11]

(Emphasis added.) In determining whether to proceed with such reform, the Commission should recognize that the CCL charges remains a very significant source of revenue for many RoR LECs that are different from the support mechanism that have now been included in the new universal service support mechanisms. While these new universal service support mechanisms will

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[7] *Notice* ¶ 24.
[8] *Notice* ¶ ¶ 24, 25.
[9] *Notice* ¶ 35.
[10] *Notice* ¶ 28, 32, 35.
[11] *Notice* ¶ 35.

continue to be based on the rural LECs' actual costs, a method for replacing reduced CCL revenues in the new universal service mechanism is far from clear.

While the 1996 weighted average CCL revenues for Minnesota Coalition LECs were $4.41 per access line per month (less than $1.00 more than the $3.64 weighted average revenues from the SLC), the range of CCL revenues for Minnesota Coalition LECs was very broad. In 1996, interstate CCL revenues:

- exceeded $10 per line per month for 12 LECs, serving approximately 18,000 access lines;
- were between $7.50 and $10 per line per month for 8 LECs, serving approximately 14,000 access lines;
- were between $5 and $7.50 per line per month for another 5 LECs, serving approximately 24,000 access lines; and
- were less than $5 for the remaining 52 LECs, serving approximately 234,000 access lines.

The shift of CCL revenues to end-user monthly rate elements could have severe consequences for end-users of many RoR LECs. These consequences could result from direct increases in the SLC, from flat rated pass-throughs of PICC charges by IXCs, or from the failure of the universal service mechanisms to provide appropriate replacements for the support now received from Interstate CCL revenues.

Accordingly, it is critical that the Commission not prematurely adopt broad access reform changes for RoR LECs. Rather the Commission should refrain from any significant shifts of traffic sensitive costs to NTS categories and from further shifts of CCL recovery to end users until reliable mechanisms are in place that would prevent substantial adverse impacts on those end-users.

II. SLC AND PICC CEILINGS FOR RoR LECs SHOULD BE BASED ON THE AVERAGE SLCs AND PICCs FOR THE PRICE CAP LECs.

The *Notice* seeks comments on the appropriateness for RoR LECs of the access rate reforms adopted for Price Cap LECs.[12] The *Notice* also recognized the apparent differences that would be created by applying the same SLC and PICC ceilings to RoR LECs and invited comment on whether the ceilings should be modified.[13] If comparable reforms are adopted for the RoR LECs, the Commission should not adopt the unadjusted ceilings selected for the Price Cap LECs because the costs of the RoR LECs are significantly greater and the unadjusted ceilings will have very different effects.

A. Reasonable Comparability of Urban and Rural Rates Will Be Impaired Unless SLC and PICC Ceilings For RoR LECs Are Limited To The Average SLCs and PICCs of Price Cap LECs.

The mandate of Section 254(b)(3) to preserve reasonable comparability of rates between urban and rural areas requires the adoption of SLC and PICC ceilings for the RoR LECs that are based on the actual effect of the ceilings for the Price Cap LECs adopted in the *Access Charge Reform Order*. Use of the national averages of the actual SLCs and PICCs for the Price Cap LECs would be administratively efficient. In contrast, using the unadjusted SLC and PICC ceilings adopted in the *Access Charge Reform Order* would impair both affordability and reasonable comparability of urban and rural rates for many RoR LECs.

In the *Access Charge Reform Order*, the Commission noted that the 1996 Act does not require the immediate elimination of implicit subsidies.[14] The 1996 Act does, however, establish mandates to preserve both affordability and reasonable comparability of urban and

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[12] ***Notice*** ¶ 36.
[13] ***Notice*** ¶ 40.

rural rates and services.[15] As the Commission noted, the 1996 Act states that implicit subsidies "should" be eliminated "to the extent possible." The 1996 Act does not say that the Commission "shall" eliminate such subsidies.[16] The Commission recognized the significance of the distinction and that maintaining affordability and reasonable comparability of urban and rural rates has a higher priority than eliminating implicit subsidies.

The adoption of SLC and PICC ceilings based on the actual impacts on the Price Cap LECs will slow the elimination of any implicit subsidies that may be present in the current CCLCs. However, the Commission has noted that Congress recognized that other factors, including impacts on end-users, may limit the Commission's ability to eliminate implicit subsidies. To serve the higher priority of preserving both affordability and reasonable comparability of urban and rural rates, the Commission should adopt ceilings for RoR LECs that are based on the actual impacts on the Price Cap LECs.

The ceilings adopted by the Commission in the *Access Charge Reform Order* also clearly reflect the Commission's recognition that the 1996 Act contains two separate mandates relating to charges paid by end-users. First, the Commission recognized the need to keep rates paid by all customers of Price Cap LECs affordable.[17] Second, the Commission also recognized the need to keep the rates paid by rural customers of Price Cap LECs reasonably comparable to the rates paid by urban customers of Price Cap LECs. [18] These are separate requirements under the 1996 Act.

The mandates of the 1996 Act to preserve affordability and reasonable comparability of urban and rural rates are even more critical to customers of the RoR LECs. RoR LECs have

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[14] *Access Charge Reform Order*, 12 FCC Rcd at 16003, ¶ 9.
[15] See, 47 USC § § 254(c)(1) [requiring affordability] and 254(c)(3) [requiring reasonable comparability].
[16] *Access Charge Reform Order*, 12 FCC Rcd at 16003, ¶ 9.
[17] *Access Charge Reform Order*, 12 FCC Rcd at 16010-16011, ¶ 73; Notice ¶ 26.

significantly higher costs than Price Cap LECs. Because of the significantly higher costs of the RoR LECs, the impacts on end users may be significantly more severe. Unless ceilings for RoR LECs are based on the impacts on the Price Cap LECs, it is clear that the results will not be comparable from the perspective of rural end user customers. Such non-comparable impacts on rural customers will tend to impair the requirements of reasonable comparability of urban and rural rates.

Comparison of the rural rates of the RoR LECs to the urban rates of the Price Cap LECs is a necessity if the mandate of reasonable comparability is to have any practical effect because most RoR LECs serve do not serve any urban areas. As a result, there is no basis for selection of urban rates to set standards for RoR LECs within the realm of the RoR LECs themselves. Accordingly, the requirement of reasonable comparability of urban and rural rates can be implemented for most RoR LECs by reference to the urban rates of the Price Cap LECs.

B. Many RoR LECs Are Very Dependent on the Revenues From A Small Number of Multiline Businesses.

The *Notice* also noted that many rural LECs are heavily dependent on the revenues from a very small number of multiline businesses[19] and that rural LECs and their customers are benefiting from recent changes which have made distance less significant to the costs of telecommunications.[20] Data from Minnesota Coalition members also confirms these observations.

A recent review of a available data for 15 members of the Minnesota Coalition shows that 1 out of 3 of these rural LECs had very significant concentrations of revenue from a very

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[18] *Access Charge Reform Order*, 12 FCC Rcd at 16014-16016, ¶¶ 79-83; Notice ¶ 26.
[19] *Notice* ¶ 16.
[20] *Notice* ¶ 18.

few customers. The 15 Minnesota Coalition LECs that were reviewed cover a wide range of sizes, densities and locations. These LECs ranged in size from 1,500 to 17,000 access lines and served both very rural and some suburban areas. The data showed that:

- For one out of three (1/3) of these LECs, ten customers accounted for over seven percent (7%) of their total revenues, including local and access charges from these customers' toll usage. (The top five customers represented almost six percent (6%) of the revenues for these LECs.)

- For one out of five (1/5) of these LECs, ten customers accounted for over ten percent (10%) of their total revenues.

If the business of these customers was lost, the impact on monthly rates of the other customers would be severe. As the data showed:

- For one out of three (1/3) of these LECs, the loss of the top ten (10) customers would increase the revenue needed from remaining customers by over $5.00 per month.

- For one out of three(1/3) of these LECs, the loss of the top five (5) customers would increase revenues needed from remaining customers by $4.00 or more per month.

This concentration of revenue shows both the importance of access charge reform and the need for flexibility to allow these LECs to make changes needed to maintain these key customers.

C. RoR LECs Would Be Vulnerable To Loss Of Key Customers If The RoR LECs SLC and PICC Ceilings Exceeded The Actual SLCs And PICCs Of Price Cap LECs.

The concentration of revenues in a very few key customers shows the urgency for many RoR LECs of preventing pricing advantages for adjacent Price Cap LECs to serve only the RoR LECs' best multiline business customers. This concentration of revenues also shows the need for the Commission to avoid adopting access reform practices that could create incentives for such key customers to either relocate their business operations (or possible business expansions) to areas served by the Price Cap LECs.

Customers have shown considerable sensitivity to new rate elements and to increase in existing rate elements. The adoption of new SLCs for multiline businesses may have a perceived impact by the customer that may greatly exceed the actual economic impact. If the SLCs of adjacent Price Cap LECs are significantly lower, there may be a considerable incentive for multiline businesses to either relocate existing business operations or to relocate possible expansions to areas served by Price Cap LECs. Either could have severe and unintended consequences for many RoR LECs. The information from the MIC members shows how severe the impact could be from the loss of even a very few customers.

In addition to preserving reasonable comparability of rural and urban rates, the Commission should avoid taking steps that would have such severe and unintended consequences. Accordingly, if the Commission proceeds to increase the SLCs and establish PICCs for RoR LECs, it should limit those charges to the average of the SLCs and PICCs for the Price Cap LECs.

III. THE COMMISSION SHOULD REQUIRE THAT ANY ACCESS CHARGE REDUCTIONS ARE FULLY REFLECTED IN TOLL RATE REDUCTIONS.

The Commission should also continue its focus on the importance of assuring that Interexchange Carriers pass through to ordinary end users toll rate reductions that reflect the full amount of access charge reductions that may occur as the result of access rate reform. The Commission has clearly recognized the importance of such toll reductions in connection with access rate reform for Price Cap LECs. The Commission should not deviate from this course in dealing with RoR LECs and reform of their access charges.

Dated: August 17, 1998.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I, Colleen von Hollen, of Kraskin, Lesse & Cosson, LLP, 2120 L Street, NW, Suite 520, Washington, DC 20037, do hereby certify that on this 17th day of August, 1998, a copy of the foregoing "Comments" on behalf of the Minnesota Independent Coalition, was served via hand delivery to the following parties:

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